

STATE OF WASHINGTON



OF OFFICE OF
INSURANCE COMMISSIONER

In the Matter of)	
)	
ACE AMERICAN)	CONSENT ORDER
INSURANCE COMPANY)	LEVYING A FINE
)	
AND)	
)	
ACE FIRE)	NO. D 2001-123
UNDERWRITERS INSURANCE)	
COMPANY)	
)	
Authorized Insurers.)	

FINDINGS OF FACT:

1. Ace American Insurance Company (formerly known as CIGNA Insurance Company) and Ace Fire Underwriters Insurance Company (formerly known as CIGNA Fire Underwriters Insurance Company) ("Ace American" or the "Company") are insurers authorized to conduct property and casualty insurance business in the State of Washington.
2. CIGNA Insurance Company, CIGNA Fire Underwriters Insurance Company and Insurance Company of North America ("Cigna") were insurers authorized to conduct property and casualty insurance business in the State of Washington until October 26, 1999. On that date a name change was implemented pursuant to an a July 2, 1999, agreement by which ACE INA Holdings, Inc. acquired all of CIGNA Corporation's property and casualty operations, including CIGNA Insurance Company and CIGNA Fire Underwriters Insurance Company and Insurance Company of North America .
3. On August 11, 1993 the Office of Insurance Commissioner ("OIC") received rate and form filing submissions from Cigna for approval of an "Allied Health Care Providers" insurance program to be sold to consumers in the State of Washington. Cigna identified this filing with the code 93-356.
4. By letter of September 13, 1993 the OIC disapproved forms and rates of filing 93-356. The letter stated the grounds for disapproval of the forms and specified the respects in which the rate

- filing failed to meet requirements. The letter requested additional information, and stated that the OIC would reconsider the filing upon receipt of a response.
5. On June 2, 1994 the OIC received a second rate and form filing submission from Cigna for approval of the Allied Health Care Providers program. Cigna identified this filing with the code 93-PR-356.
 6. By letter of June 29, 1994 the OIC disapproved forms and rates of filing 93-PR-356. The letter stated the grounds for disapproval of the forms and specified the respects in which the rate filing failed to meet requirements. The letter requested additional information and stated that the filing would be reconsidered upon receipt of a response.
 7. By letter of July 26, 1994 Cigna notified the OIC that it would make no further efforts to obtain approval for the Allied Health Care Providers program described in filing 93-PR-356.
 8. On July 15, 1999 the OIC received from Cigna filings for rates and forms for a new "Allied Health Professional" insurance program. The letters accompanying the filings stated that the program "will take the place of the existing CIGNA Allied Health Care Providers Professional and Supplemental Policy filing, filed under our filing number 93-PR-356, in 1993." Cigna identified the July 15, 1999 filings with the code 99-144.
 9. By letter of August 17, 1999 the OIC notified Cigna that it was holding filing 99-144 as disapproved with respect to rates, and that the filing would be deemed no longer effective after November 17, 1999. This letter specified how the rate filing failed to meet requirements. It also requested additional information and stated that upon receipt of that information the filing would be reconsidered.
 10. By letter of September 3, 1999 Cigna responded to the OIC's August 17, 1999 letter with the additional requested information. On October 1, 1999 the OIC approved filing 99-144 with respect to rates. The effective date of approval with respect to rates was deemed to be September 15, 1999.
 11. By letter of August 12, 1999 the OIC notified Cigna that filing 99-144 was disapproved with respect to certain forms, and that those forms would be deemed no longer effective after November 12, 1999. This letter specified how the forms failed to meet requirements. It also requested additional information, and stated that upon receipt of a response the filing would be reconsidered.
 12. By letter of November 8, 1999 Ace American Insurance Company, having purchased Cigna, responded to the OIC letter of August 12. By letter of December 2, 1999 the OIC notified Ace American that it continued to find certain forms unacceptable under RCW 48.18.110; and that the forms were disapproved and would be no longer deemed effective after March 2, 2000. This letter specified how the forms failed to meet requirements. It also requested additional information and stated that upon receipt of response the OIC would reconsider the filing.
 13. By letter of April 26, 2000 the OIC informed Ace American that filing 99-144 had been closed due to the lack of response to the OIC's letter of December 2, 1999. This letter asked the Company to offer justification for issuing the policies under the disapproved Allied Health Care Provider program (filing 93-PR-356), and asked whether the Company had continued to issue new policies in this program since receiving the OIC's December 2 letter. The April 26 letter also asked the Company to respond to those questions within 15 business days as required by WAC 284-30-650. The Company failed to respond to the April 26 letter within 15 days of receiving the letter.
 14. On July 27, 2000 the OIC once again received form filings for the Allied Health Professional insurance program, requesting approval effective September 15, 2000. Ace American identified

this filing with the code 2000-PR-088. This filing was ultimately approved by OIC with respect to forms effective September 15, 2000.

15. Despite OIC disapproval of the “Allied Health Professional” program’s policy forms between March 2, 2000 and September 15, 2000, Ace American issued a total of 151 policies under this program to consumers in Washington State during that time period. The Company collected a total of \$33,978 in premiums on these policies.
16. Despite OIC disapproval of the “Allied Health Care Provider” program’s policy forms and rates in 1994, Ace American issued a total of 1,354 policies under this program to consumers in Washington State, between January 1, 1995 and September 15, 1999. The Company collected a total of \$333,160 in premiums on these policies.

CONCLUSION OF LAW:

1. Ace American’s issuance of 1,505 insurance policy forms when the policy forms were disapproved constitutes a minimum of 1,505 violations of RCW 48.18.100.
2. Ace American’s issuance of 1,354 insurance policies when the policies’ rates were disapproved constitutes a minimum of 1,354 violations of RCW 48.19.040.
3. Ace American’s failure to file rates within thirty days after issuing policies using those rates violated RCW 48.19.043.
4. Ace American’s failure to file policy forms within thirty days after issuing policies using those forms violated RCW 48.18.103.
5. Ace American’s failure to respond within fifteen business days from receipt of an inquiry from the OIC violated WAC 284-30-650.

CONSENT TO ORDER

Ace American hereby admits to the foregoing Findings of Fact and Conclusions of Law. Ace American acknowledges its duty to comply fully with the applicable laws of the State of Washington.

The Commissioner has offered a settlement in lieu of suspending or revoking Ace American’s certificate of authority.

By agreement of the parties, the OIC will impose a fine of \$160,000.00 on Ace American, and suspend \$80,000.00 of that amount, on condition that:

1. Ace American pays \$80,000.00 of the fine for its violations of Washington insurance law within thirty days of the entry of this Order.

2. Ace American executes and carries out all details of the "Compliance Plan" as set forth in Exhibit I.
3. Ace American commits no further violations of the statutes and regulations that are the subject of this Consent Order for a period of two years from the date on which this Order is entered.

EXECUTED and AGREED this _____ day of _____, 2001.

ACE AMERICAN INSURANCE COMPANY

Title: _____

Signed: _____

ACE FIRE UNDERWRITERS
INSURANCE COMPANY

Title: _____

Signed: _____

ORDER

Pursuant to RCW 48.05.185, the Insurance Commissioner hereby imposes a fine of \$160,000 upon Ace American, and suspends \$80,000 under the Conditions set forth in the Consent to Order section of this Consent Order. \$80,000 of the fine must be paid in full within thirty days of the date of entry of this order. Failure to pay this portion of the fine and to comply with the stated Conditions shall constitute grounds for recovery of the full fine, including the suspended portion, and for revocation of Ace American's certificate of authority in a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

ENTERED AT OLYMPIA, WASHINGTON, this _____ day of _____, 2001.

MIKE KREIDLER
Insurance Commissioner

By: _____
MEG L. JONES
Assistant Deputy Commissioner

CORPORATE COMPLIANCE AGREEMENT

BETWEEN THE
OFFICE OF THE INSURANCE COMMISSIONER
FOR THE STATE OF WASHINGTON
AND
ACE USA INSURANCE COMPANY

I. PREAMBLE

A. Statement of Intent

Ace USA Insurance Company ("Company") hereby voluntarily enters into this Corporate Compliance Agreement ("Plan") with the Office of the Insurance Commissioner ("OIC") for the State of Washington, to promote compliance by Company with the requirements of the laws and regulations of the State of Washington (collectively referred to hereafter as the "Code"). Company is also entering into a Consent Order with OIC and this Plan is incorporated by reference into the Settlement Agreement as Exhibit A.

B. Definitions

1. Company: any corporation, limited liability company, partnership or any other legal entity or organization in which Company or any of its subsidiaries or affiliates controls the day to day operations, directly or indirectly owns greater than 50% of the vote equity or has other controlling interest or has a management or billing contract or arrangement to provide management or administrative services. The terms of this Plan shall apply to such management or billing contracts or arrangements to the extent of the responsibility undertaken pursuant to each contract or arrangement.

II. TERM OF THE PLAN

The period of the compliance obligations assumed by Company under this Plan shall be the period of time between January 1, 2002 and the next market conduct examination of the Company by OIC, but in any event for not less than three years unless otherwise specified from the Effective Date of this Plan. The Effective Date of this Plan is the date upon which both parties have signed this Plan, on which date it shall become final and binding.

III. COMPANY'S OBLIGATIONS UNDER THE PLAN

A. Infrastructure Development

1. Company shall establish Policies and Procedures regarding its Rate, Loss Cost, Rule and Form Filings System identifying specific procedures to ensure

compliance with Washington law throughout each department or division of Company. Included in the policy and procedure shall be an identification by Job Title the person or persons accountable for each function related to the procedure, and the corrective action Company will impose if the procedure or policy is not followed.

2. The internal audit department of Company shall be given a copy of the Consent Order, this Compliance Agreement and the Policies and Procedures referenced above, and shall conduct annual audits of the appropriate departments or divisions regarding compliance with Washington law and the Policies and Procedures. A copy of these findings shall be distributed to the Board of Directors for Company. The Company shall certify annually to the OIC that the internal audits occurred, that the Company was or was not in compliance, and if it was not, the date by which the Company anticipates that any non-compliant aspects would be corrected, identifying those non-compliant areas.
3. The Policies and Procedures shall include, but not be limited to:
 - a. ensuring that rate and form filings with the State of Washington OIC are timely, accurate and approved before use, in accordance with applicable law; and
 - b. ensuring that marketing efforts are not undertaken nor policies issued or coverage bound for product offerings that are not in compliance with applicable Washington State law; and
 - c. ensure that all departments or divisions are aware that responses to OIC requests for information or replies are due within fifteen business days; and
 - d. confirming that employees who make disclosures or otherwise report on compliance issues are assured of no retaliation; and
 - e. identifying and providing training as necessary to provide employees and contractors with the information and skills required to carry out the Policies and Procedures related to compliance with Washington law; and

IV. **CONTACT PERSONS**

All notifications or reports required under this Plan shall be submitted to the entities listed below:

OIC Contact: Legal Affairs Department
 P.O. Box 40259
 Olympia WA 98504-0259

Ace USA Contact: James H. Clay
 Regulatory Compliance Officer
 P.O. Box 41484
 Philadelphia PA 19101-1484

V. BREACH AND DEFAULT PROVISIONS

Company is expected to comply fully and in a timely manner with the obligations herein throughout the term of this Plan. Failure to comply may result in the imposition of the following stipulated penalties:

- A. A stipulated penalty of \$500.00 shall accrue beginning on the tenth day after Company fails to perform any of its obligations enumerated in this Plan. The penalty shall accrue on a daily basis until proof of compliance is provided to OIC, but the aggregate shall not exceed \$15,000.00 for each violation. OIC may provide extensions to Company upon written request for the same.
- B. Payment of the stipulated penalty is due within thirty (30) days of receipt from OIC of a letter demanding the same. In the event Company elects an ALJ hearing to dispute OIC's determination of noncompliance, the Stipulated Penalties shall continue to accrue until Company cures to OIC's satisfaction the alleged breach in dispute; however, the payment of such accrued Stipulated Penalties shall remain pending until the ALJ determination. Failure to respond to the Demand Letter within the allowable time period shall be considered a material breach of this Plan and reason for imposition of the Suspended Fine referenced in the Consent Order.
- C. Material Breach occurs if Company fails to address or report a material deficiency, to take and enforce corrective action or to pay any appropriate refunds, or if Company engages in repeated, systemic or flagrant violations of the obligations under this Plan, or if Company fails to respond to a Demand Letter as set forth in subsection V.(B). A Material Breach triggers OIC's right to demand payment by Company of the Suspended Fine referenced in the Consent Order.
- D. Company has the right to cure any material breach to OIC's satisfaction within 35 days of its receipt of notice from OIC that a material breach has occurred, unless the material breach cannot be cured within that time frame, in which case Company must establish to OIC's satisfaction that it has begun action to cure the material breach with due diligence and has provided OIC with a reasonable timetable for curing the material breach.

VI. EFFECTIVE AND BINDING AGREEMENT

- A. This Plan is binding on the successors, assigns and transferees of Company;
- B. This Plan is final and binding on the date the final signature is obtained on the Plan and shall incorporate any other compliance plans obligating Company at the time of execution of this Plan.
- C. The undersigned Company signatories represent and warrant that they are authorized to execute this Plan. The undersigned OIC signatory represents that she is signing this plan in her official capacity and that she is authorized to execute this Plan.

ACE USA INSURANCE COMPANY

OFFICE OF THE INSURANCE
COMMISSIONER

BY: _____

BY: _____

DATE: _____

DATE: _____